

February 28, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L06P0005**
Proposed Ordinance No. **2007-0002**

BARBER PLAT
Preliminary Plat Application

Location: 30114 – 32nd Avenue South, in the unincorporated Federal Way area

Applicant: **J&M Land Development Inc.** (successor to
Seattle Redevelopment, LLC)
Attn: Marc Rousso
P.O. Box 2566
Renton, Washington 98056
Telephone: (206) 948-8899

King County: Department of Development and Environmental Services (DDES)
represented by **Trishah Bull**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6758
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:

Approve subject to conditions

Department's Final Recommendation:

Approve subject to revised conditions

Examiner's Decision:

Approve subject to further revised conditions

EXAMINER PROCEEDINGS:

Hearing Opened:

January 29, 2008

Hearing Closed:

January 29, 2008

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Applicant:	Marc Rousso Seattle Redevelopment, LLC/J&M Land Development Inc. PO Box 2566 Renton, WA 98056 206-948-8899
Engineer:	Jim Jaeger Jaeger Engineering 9419 South 204 th Place Kent, WA 98031 253-850-0934
STR:	SW-03-21-04
Location:	The site is located at 30114 32 nd Avenue South, approximately 140 feet north of the 32 nd Avenue South and South 302 nd Place intersection.
Zoning:	R-8
Acreage:	2.73 acres
Number of Lots:	11
Density:	4 units per acre
Lot Size:	Ranges from approximately 3,400 to 5,000 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Lakehaven Utility District
Water Supply:	Lakehaven Utility District
Fire District:	King County District No. 39
School District:	Federal Way School District No. 210
Application Completeness Date:	February 1, 2006
Related Applications:	L06V0104 Surface Water Design Adjustment L07AE002 Critical Areas Alteration Exception L07V0005 Variance from the 1993 King County Road Standards

2. Except as may be modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.

3. The subject property is a near-square rectangular parcel 2.73 acres in area, located just east of I-5 in the unincorporated Federal Way area. Its southwest corner lies at the current stub terminus of 32nd Avenue South, just north of South 302nd Place; its east boundary lies approximately 30 feet west of the present cul-de-sac terminus of South 301st Place in the adjacent *Dmitrie's Place* development (the South 301st Place *right-of-way* extends westerly from the cul-de-sac improvement to directly abut the subject property's east boundary). The site generally has a gentle slope to the south and contains three Category III wetlands in a shallow depression in the western portion. Vegetation consists of pasture grasses with scattered brush and a mixed-species tree overstory. An existing single-family residence lies in the east-central portion. The nearby vicinity is developed mostly with single-family residences; to the west, there is an undeveloped parcel between the subject site and I-5.
4. Applicant J&M Land Development Inc. (successor to Seattle Redevelopment, LLC) proposes subdivision of the property into 11 lots for detached single-family dwellings and separate sensitive area tracts,¹ a private lot access tract and a drainage and recreation tract. The existing single-family residence would remain, in Lot 2. The proposed density is four dwelling units per acre, with lot sizes ranging from approximately 3,000 to 6,400 square feet for the newly developable lots; Lot 2 for the existing residence would be slightly over 8,000 square feet in area. The proposed development will include a recreation tract with 4,925 square feet of play area.²
5. Public road access is proposed to be extended due northward into the site by an extension of 32nd Avenue South into the western portion of the site; the road would then curve easterly to become South 301st Place and stub at the eastern boundary (see below regarding the road terminus extent). Private access Tract C would extend northerly from the east-west South 301st Place in the approximate center of the site, to provide access to Lots 2 through 8.
6. The extension of 32nd Avenue South northward into the site would be a continuation of the half street dedication and improvement of that road south of the site; a variance to the King County Road Standards (KCRS) has been granted by KCDOT to allow the half-street access (L07V0005). A second aspect of the road variance permits the creation of lots exceeding the normal maximum on a dead-end road. (The dead end nature of the extension of South 301st Place through the site is temporary, for at least the short-term future, though probably of long term according to KCDOT. Although the development would complete the through *right-of-way* connection to the current right-of-way terminus of South 301st Place at the property line in the adjoining *Dmitrie's Place* development, a through road *improvement* connection would not be made at the present time. The access would be barricaded at/near the property line, allowing only secondary emergency vehicle access and through pedestrian travel, particularly for resident schoolchildren walking to the nearby Camelot Elementary School (and perhaps other grade-level bus stops; see below).

¹ For the retained wetlands and buffers; some wetland fill would occur, with wetland/buffer enhancement mitigation pursuant to the critical areas ordinance, Chapter 21A.24 KCC.

² Reduced from the 6,045 square footage area in the previous plat version, the amount reviewed in the department report. The square footage and facilities provided must conform to applicable county standards.

7. A resident/property owner in the adjacent *Dmitrie's Place* development to the east expressed concern about through connection of South 301st Street facilitated by the proposed development improvement, which it is contended would provide an attractive through route to speeding traffic coming through *Dmitrie's Place*, creating an unsafe traffic situation and reduced quality of life for current residents along such road. It should be noted that by the configuration of the existing public road right-of-way in *Dmitrie's Place*, which extends in a full stub beyond the improved cul de sac to the actual property boundary, the road was clearly provided at the time of the *Dmitrie's Place* design and approval to be extended and through-connected in the future. But as noted above any through connection is likely to occur in the long term future, and may not occur. If it does, the neighborhood may request from KCDOT that traffic calming devices and other traffic speed limiting devices/configurations be installed along such route to reduce speeds and enhance traffic and pedestrian safety.
8. As noted, the extension of South 301st Place through the site for public road access will terminate at the property's east boundary to coincide with the current westerly terminus of the corresponding right-of-way in the adjacent *Dmitrie's Place* development. The Applicant does not object to dedicating the right-of-way to the east property boundary as a full right-of-way extension, but does not desire to provide a full road improvement all the way to the eastern boundary, contending that it is not necessary for the proposed development itself.
 - A. However, the through right-of-way connection is required as a condition of the road standards variances that have been granted by KCDOT. The Examiner does not have review authority over KCDOT road variances, and must generally accept them at face value. That being the case, the lot layout which ensues from the conditioning of the variances to provide the full right-of-way extension results in Lot 1, a residentially developable lot, and Tract B, the drainage and recreation tract, lying at the eastern stub terminus of the South 301st Place right-of-way. Lot 1 is 46.5 feet in width, while Tract B's width is 50 feet; those dimensions correspond to the South 301st Place road frontage of each lot/tract. Lot 1 and Tract B each require road access, in the first case for residential vehicular and pedestrian access to a residentially developable lot, and in the second instance requiring vehicular access for drainage and recreation facility maintenance and pedestrian access so development residents can safely access the recreation facilities proposed in Tract B.
 - B. Therefore, the necessary urban road improvement will have to extend to at least as far as the minimum outside driveway width, plus setback from the west property line, on the Lot 1 frontage, leaving at most perhaps 25-30 feet of road length left in reasonable disputation.
 - C. The Applicant also contends that the road variances were predicated on a prior design (with a cul-de-sac terminus further to the west, short of the property line, instead of the current stub terminus at the property line) which obviated the need for full road improvements to the east boundary.
9. The Applicant also desires that the right-of-way width for South 301st Place within the plat not be fixed rigidly at 48 feet in the preliminary plat approval, desiring to have some flexibility if possible. The right-of-way width that is necessary is that which can sufficiently accommodate a sub-collector access road width, which KCDOT has determined is necessary under the KCRS for

long term road needs, and necessary appurtenances including utility placements. The Examiner accords appropriate deference to KCDOT's authority in such regard in its administration of the county road system and the KCRS, and shall word the pertinent condition of approval to merely require that the right-of-way width be sufficient to accommodate the necessary road improvement width. KCDOT will make the final call on the necessary right-of-way width.

10. Safe walking conditions for resident school pedestrians will be provided sufficiently onsite and offsite for elementary school children, who will walk from their homes within the development (which itself will provide sufficient pedestrian safety in its road and walkway improvements) easterly to the South 301st Place cul-de-sac in the adjacent *Dmitrie's Place* development and then along offsite routes with urban walkways to Camelot Elementary School. Resident high school students will be picked up for school bus transportation to Thomas Jefferson High School at a bus stop south of the site on 32nd Avenue South at South 304th Street. That route will have safe offsite walking conditions as well.
11. The problematic segment of the resident school population in terms of pedestrian safety is the middle school cohort. Kilo Middle School is their destination, located to the east-southeast. The currently submitted evidence and testimony in the record indicate that they will not be provided bus transportation. For the first part of their walking route, middle school students will use the same route as high school students will use to the high school bus stop at South 304th Street, but from there walking conditions are in places not sufficient to provide safe walking conditions.
12. County staff has accordingly recommended that an offsite walkway be provided on South 304th Street from 32nd Avenue South (the location of the high school bus stop) easterly to 38th Avenue South either by widening of the roadway, installation of a separated walkway or an urban-type shoulder improvement (curb, gutter and sidewalk). Any paved improvement will also require a full width overlay on the northerly half street of South 304th Street along the extent of the walkway improvements. The walkway improvement may be placed on either side of South 304th Street, but must be consistent between 32nd Avenue South and 38th Avenue South (not permitting a mid-segment crossing at a non-road intersection location).
13. The Applicant desires some flexibility in the requirement of off-site pedestrian improvements, contending that school bus stop locations may change over time and the Applicant desires to have the benefit of the latest information up until final plat approval in order not to have to install improvements which would be unnecessary if the District assigns a school bus stop for Kilo Middle School close to the development site, which the students could utilize rather than walk the offsite route on South 304th Street with its currently substandard conditions for school pedestrian safety.

CONCLUSIONS:

1. Since the right-of-way extension to the property line is required by an administrative KCDOT variance decision, over which the Examiner has no review authority as previously noted, and the applicant has indicated a willingness to dedicate the full extent of the right-of-way, the right-of-way location to the property line is a given in the Examiner's consideration of the proposed plat. The issue of the extent of required *improvement* of such public right-of-way is therefore a matter of the application of the KCRS. That is an administrative matter under KCDOT authority, which

itself may be subject to a variance request. In addition, the conditions of the current variance may be able to be revisited, given the redesign of the plat. That matter should be addressed to KCDOT. To assure minimum “appropriate provisions” for roads, recreation and safe walking conditions for schoolchildren required under the subdivision review authority of RCW 58.17.110, the Examiner shall impose a general minimum requirement of a subcollector through road improvement providing road and pedestrian access to Lot 1 and Tract B (which would seem to require full urban road improvements to approximately 30 feet or less from the east boundary, as noted above) and a through connection and walkway beyond that to meet up with the *Dmitrie’s Place* cul de sac to provide for sufficient emergency vehicle and pedestrian access. (See condition 7.a.)

2. The flexibility of off-site school pedestrian improvement requirements requested by the Applicant as noted above shall be granted, as reflected in the conditions of preliminary plat approval below. (See condition 7.f.)
3. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-8 zone.
4. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
5. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
6. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on January 29, 2008 (exh. no. 14), or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Barber* subdivision, as revised and received January 29, 2008 (exh. no. 14), is approved subject to the following conditions of approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the density requirements of the R-8 zone classification. All lots shall meet the dimensional requirements of the R-8 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS), as may be adjusted through the formal standards variance process as provided below in Condition 7.d.
5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the hydrant location and fire flow standards of Chapter 17.08 KCC.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. The drainage facilities shall meet the requirements of the 2005 King County Surface Water Design Manual (KCSWDM). The site is subject to the Conservation flow control and Basic water quality requirements of the 2005 KCSWDM.
 - e. Drainage adjustment L06V0104 is approved for this project. All conditions of approval for this adjustment shall be met prior to engineering plan approval.
 - f. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and

provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.

- g. The 100-year floodplain for any on-site wetlands or streams shall be shown on the engineering plans and the final plat per Special Requirement #2 of the KCSWDM.

7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:

- a. South 301st Place shall be improved at a minimum to provide a full-width urban standard subcollector through-road improvement to a point sufficiently east to provide sufficient and safe road and pedestrian access to Lot 1 and Tract B.

A paved temporary cul-de-sac shall be constructed in the approximate location of the cul-de-sac turnaround shown on the preliminary plat submittal dated June 20th 2007. The interim connection to the existing 32nd Avenue South shall be constructed, as shown, using a low-speed curve per KCRS 2.10.A.2 with concrete curb, gutter and sidewalk on both sides of the roadway.

At the easterly subdivision boundary, the applicant shall install an emergency gate activated by an emergency-vehicle pre-emption system (Opticom), with an override keyed lock provided to local emergency responders (Federal Way PD, Fire District). This improvement shall also include the construction of a minimum 20-foot wide roadway surface in the existing right-of-way WEST of the cul-de-sac bulb constructed as a part of the improvements with the plat of Dmitrie's Place and further west as necessary so that the South 301st Place road improvement required above meets up with the *Dmitrie's Place* cul de sac to provide for sufficient emergency vehicle access.

A minimum 5-foot wide paved path shall be provided that allows pedestrian access between the Barber plat and the portion of South 301st in the plat of Dmitrie's Place.

The Applicant shall dedicate a sufficient width (urban subcollector road) public right-of-way for South 301st Place based on its realignment (as generally depicted on exh. no. 14). This right-of-way shall be based upon a 300-foot centerline radius that connects the centerline of South 301st Street with a future northerly extension of 31st Avenue South immediately adjacent to the east right-of-way line of Interstate 5.

- b. FRONTAGE: 32nd Avenue South shall be improved at a minimum to the urban half-street Subcollector standard.
- c. The private access tract shall be improved to the private access street standard per Section 2.09 of the KCRS. This Tract shall be owned and maintained by the Lot owners served.

- d. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
- e. Road Variance L07V0005 is approved for this site. The regulatory conditions imposed in the variance consideration are set forth separately under KCDOT administrative authority in the variance approval. All applicable road variance conditions of approval shall be met prior to engineering plan approval.
- f. Off-site: South 304th Street shall be widened on the north side of the street, as required between 32nd Avenue South and 38th Avenue South, to provide a paved walkway (KCRS Section 3.09) for resident students who walk to Kilo Middle School. The walkway shall be at least eight (8) feet wide – as measured from the existing roadway fogline/edge stripe, and may be located on either the south side or north side (preferred) of South 304th Street. No changes of path location (north side of road to south side, or vice versa) will be permitted except at either the 32nd Avenue South or 38th Avenue South intersections. This may require, per Section 4.01f of the KCRS, a full-width overlay of the sections of South 304th Street where the north-side shoulder widening is required.

Alternatives to full-width shoulder widening: a walkway separated by an extruded curb (5 feet wide, behind the curb – and a minimum 2-foot ‘shy’ distance from the existing fogline/edgeline), or urban-type shoulder improvements (curb/gutter and sidewalk) may be used without additional variance review and/or approval. The paved walkway, separated by an extruded curb, will still require the full-width overlay.

During engineering plan review, the Applicant may submit a variance to KCRS Section 3.09 to propose a gravel-surfaced walkway in lieu of the paved shoulder widening. If approved, this would eliminate the requirement to overlay the roadway through the widened section of South 304 Street.

NOTE: Until final plat approval, the above condition (7.f) regarding offsite school pedestrian facilities may be waived/modified by authorized county staff in response to updated formal communications from the Federal Way School District regarding the pertinent school travel requirements for middle school students who may reside in the subdivision, such as the provision of school bus transportation and/or changes to the walking conditions along the pertinent walking route, PROVIDED that any such waiver/modification shall be based on written conclusions that safe walking conditions are in place and/or to be appropriately provided, by the time of the first residential occupancy in the development, for middle school students who may reside in the subdivision to the nearest assigned middle school bus stop or along a reasonably direct, safe and legal pedestrian route to their middle school, as may pertinently apply.

- 8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.

9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. (Deleted by Hearing Examiner)
12. The proposed subdivision shall comply with the Critical Areas Code as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
13. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant.

Wetlands & Streams

- a. The three Category III wetlands shall have a 75 foot buffer as measured from the wetland edge. This buffer may be reduced to 50 feet as shown on the preliminary plat plan provided the remaining buffer is enhanced to County standards. A buffer enhancement plan will be required during engineering review.
- b. A portion of Wetland B and its buffer may be impacted with the construction of the public access road (South 301st Place). The regulatory conditions imposed to address this impact are set forth separately under DDES administrative authority in the Alteration Exception permit, L07AE002.
- c. The remaining wetlands and buffer shall be placed in Critical Area Tracts (CAT) for long term protection. A four foot high split railed fence or similar shall be installed along the CAT boundary. Critical Area signs, one per lot on those lots that abut the CAT, shall be installed on or near the fence.
- d. A 15' building set back line (BSBL) is required from the edge of Critical Area Tracts and shall be shown on all affected lots. Proposed lots 9 and 10 may have a minimum 5' BSBL from the CAT as shown on the preliminary plat plan.

- e. Prior to construction or clearing activities on site the CAT boundaries shall be clearly marked with orange construction fencing or similar, and shown on the engineering plans. The fencing shall remain in place until all clearing or construction is completed.
- f. The engineering plans shall be submitted and reviewed by Critical Areas Staff.
- g. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR CRITICAL AREA TRACTS AND CRITICAL
AREAS AND BUFFERS**

Dedication of a critical area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/critical area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The critical area tract/critical area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/critical area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/critical area and buffer. The vegetation within the tract/critical area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/critical area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the critical area tract/critical area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the critical area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

- 14. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plan.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.

15. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
16. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 32nd Avenue South is on a bus route. If 32nd Avenue South is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

17. **SPRINKLER REQUIREMENT:** All future residences constructed within this subdivision (except those constructed on lots 1 and 2) are required to be sprinkled NFPA 13D unless the requirement is removed by the King County Fire Marshal or his/her designee. The Fire Code requires all portions of the exterior walls of structures to be within 150 feet (as a person would walk via an approved route around the building) from a minimum 20-foot wide, unobstructed driving surface. To qualify for removal of the sprinkler requirement driving surfaces between curbs must be a minimum of 28 feet in width when parking is allowed on one side of the roadway, and at least 36 feet in width when parking is permitted on both sides. No on-street parking will be permitted in the cul-de-sacs.

Additionally, the driving surfaces of Tract C/joint-use driveway must have unobstructed driving surfaces at least 20 feet in width; or residences constructed on lots 3 through 8 will have to be sprinkled.

18. The subdivision shall conform to KCC 16.82 relating to grading and tree retention on private property.

ORDERED February 28, 2008.

Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before March 13, 2008***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before March 20, 2008***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JANUARY 29, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L06P0005.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Trishah Bull, Bruce Whittaker and Kristen Langley, representing the Department; James Jaeger representing the Applicant, and Leonardo Herrera.

The following Exhibits were offered and entered into the record:

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| Exhibit No. 1 | Department of Development and Environmental Services file no. L06P0005 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated January 29, 2008 |
| Exhibit No. 3 | Application for Land Use Permits received February 1, 2006 |
| Exhibit No. 4 | SEPA checklist received February 1, 2006 |
| Exhibit No. 5 | Affidavit of Posting indicating a posting date of May 23, 2006; received by DDES on May 26, 2006 |
| Exhibit No. 6 | SEPA Determination of Non-Significance issued December 18, 2007 |
| Exhibit No. 7 | Preliminary plat map received June 20, 2007 (revised) |
| Exhibit No. 8 | Level 1 Downstream Drainage Analysis received October 3, 2006 |
| Exhibit No. 9 | Conceptual Drainage Plan received October 3, 2006 (revised) |
| Exhibit No. 10 | Critical Areas Assessment and Delineation received July 20, 2006 |
| Exhibit No. 11 | Approved KCSWDM Adjustment L06V0104 |
| Exhibit No. 12 | School Walkway Inventory received July 20, 2006 |
| Exhibit No. 13 | DDES Proposed Addition to the Preliminary Report, N. 7.f. |
| Exhibit No. 14 | Preliminary Plat Plan received January 29, 2008 |

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